

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE 2014 AVON PRODUCTS, INC.
ERISA LITIGATION

14 Civ. 10083 (LGS)

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF AMENDED CLASS ACTION SETTLEMENT AND FOR RELATED RELIEF**

Named Plaintiffs Kay E. Comstock, Mark Jacobs, Kathleen A. McCoy, Frank Pacific, George Poovathur and Katherine C. Walker file this Unopposed¹ Motion for Preliminary Approval of Amended Class Action Settlement and for Related Relief (the “Motion”) and respectfully move the Court for an Order:

- (1) preliminarily approving the proposed Amended Class Action Settlement Agreement and Release, dated May 23, 2016, 2016 (Exhibit A hereto) (the “Amended Settlement Stipulation”);²
- (2) preliminarily certifying the Settlement Class, defined in the Amended Settlement Stipulation and below, solely for Settlement purposes;
- (3) approving the proposed Notice Plan,
- (4) scheduling a Fairness Hearing no sooner than 120 days from the filing of this motion, or not before September 19, 2016, and
- (5) Approving Named Plaintiffs’ selection of a Settlement Administrator.

A form of [Proposed] Preliminary Approval Order is Exhibit 1 to the Amended Settlement Stipulation, and will be sent to chambers by e-mail in Word format. The Preliminary Approval Order also has two exhibits: Exhibit 1.A (a Class Notice that will be mailed to all members of the Settlement Class at their last known address) and Exhibit 1.B (a Summary

¹ The Parties conferred on May 19, 2016, and Defendants’ Counsel represented Plaintiffs’ Motion is unopposed.

² Capitalized terms used herein are defined in the Amended Settlement Stipulation.

Notice to be published in *USA Today* and *PR Newswire*, as set forth in ¶ 8 of the Preliminary Approval Order).

The grounds for this Motion are as follows:

The Settlement provides for an aggregate Settlement Payment of \$6,250,000, to be paid by Avon and its Insurer, to create a Qualified Settlement Fund. If the Settlement is approved by the Court, the Qualified Settlement Fund, after such appropriate deductions as the Court may approve (the “Net Settlement Fund”), will be distributed among proposed Settlement Class members. The Settlement Class is defined as:

All Persons who were participants in or beneficiaries of the Avon Personal Savings Account Plan (the “Plan”) at any time from July 31, 2006 through February 29, 2016 (the “Class Period”), and whose Plan accounts included investments in the Avon Stock Fund.

If approved, the distribution of the Net Settlement Fund will be in accordance with a Plan of Allocation that is designed to reimburse Settlement Class members for their proportional share of losses incurred as a result of holding Avon common stock in their Plan accounts during the Class Period.

For the reasons detailed in Plaintiffs’ Memorandum of Law in Support of their February 29, 2016 motion for preliminary approval of the February 29, 2016 Class Action Settlement Agreement and Release (Dkt. No. 52), and the letter filed by Plaintiffs’ counsel today, the proposed Settlement is within the range of reasonableness of what the Court may finally approve as fair, reasonable and adequate under Fed. R. Civ. P. 23(e).

The proposed Settlement Class also satisfies the requirements of Federal Rule of Civil Procedure 23(a) and (b)(1) and (b)(2), thereby warranting preliminary certification of the Settlement Class for purposes of settlement. The proposed Notice Plan—which consists of (1) a Class Notice to be mailed to Settlement Class members at their last known addresses, (2) the

creation of a dedicated website to share information with Settlement Class members, and (3) publication through a *PR Newswire* and in *USA Today*—satisfies the requirements of Rule 23 and due process and is consistent with that approved by courts and implemented in similar settled ERISA actions.

In connection with the proposed Settlement, Plaintiffs' counsel proposes A.B. Data, Ltd. ("A.B. Data") serve as the Settlement Administrator, pursuant to ¶ 6 of the Preliminary Approval Order. A.B. Data was selected to act as the Settlement Administrator for the Action, after seeking and reviewing bids from three qualified class action administration firms. Plaintiffs' counsel have worked with A.B. Data numerous times to administer settlements before and have been pleased with their services, and otherwise have no relationship with the proposed Settlement Administrator.³ Plaintiffs' counsel sought a Settlement Administrator that would best be suited for this case, and based on multiple communications with three firms, believe that A.B. Data provides the best value to the Class. A.B. Data's estimate for the cost of services and proposed cap on administration fees was materially identical to one other bid, and considerably lower than the third bid received. The billing arrangement is for payment upon services, as set forth in the Amended Settlement Stipulation, where the Notice Plan will be paid for upon its completion after preliminary approval and final payment will be made upon the Net Settlement Fund being otherwise ready for distribution. A.B. Data has agreed to cap its fees for Notice and all Settlement Administration to \$80,000, based upon certain assumptions about the amount of class members, expected outdated address and address updates required, and other assumptions believed to be reasonable based upon its experiences in analogous cases. A.B. Data's fees and

³ Plaintiffs' counsel has received nominal holiday gifts from the proposed Settlement Administrator, which nominal gifts are not a factor in the proposed Settlement Administrator's selection.

expenses for implementing the Notice Plan will be paid upon completion of the Notice Plan, with the balance paid immediately before distribution. Should those assumptions not hold in this case, A.B. Data may apply, at or after the Fairness Hearing, for fees in excess of its proposed cap and will be prepared to explain any such deviation if it seeks any payment in excess of the proposed cap.

This Motion is based on (1) the Amended Settlement Stipulation (Exhibit A hereto), (2) Plaintiffs' Memorandum in support of their February 29, 2016 motion for preliminary approval of the February 29, 2016 Class Action Settlement Agreement and Release (Dkt. No. 52) , (3) the Joint Declaration of Michael J. Klein and Samuel Bonderoff in support of Plaintiffs' February 29, 2016 motion for preliminary approval of the February 29, 2016 Class Action Settlement Agreement and Release (Dkt. No. 51), (4) Plaintiffs' Counsel's letter of May 23, 2016, regarding what Plan participants would get as a percentage of their losses if the proposed settlement were approved, and (5) all papers on file in this action.

While not integral to this Motion, for the convenience of the Court, the Plaintiffs respectfully suggest that the schedule set forth in Exhibit B hereto might be helpful in selecting a date for the Settlement Fairness Hearing. Additionally, for the Court's convenience, Exhibit C hereto tracks the non-formatting amendments made in the Amended Settlement Stipulation, and Exhibit D hereto is a copy of Plan provision 14.3, which is referenced in the Plan of Allocation.

DATED: May 23, 2016

By:/s/ Samuel E. Bonderoff
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